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January 4, 2011

Mark J. Langer, Clerk  
United States Court of Appeals for the District of Columbia Circuit  
333 Constitution Ave., N.W.  
Washington, D.C. 20001

Re: Submission under Federal Rule of Appellate Procedure 28(j) in  
*Heller v. District of Columbia*, No. 10-7036 (argued on Nov. 15, 2010,  
before Judges Ginsburg, Henderson, and Kavanaugh)

Dear Mr. Langer:

Pursuant to Federal Rule of Appellate Procedure 28(j), Appellants Dick Anthony Heller *et al.* hereby advise the Court of a pertinent new authority which suggests that strict scrutiny applies to restrictions on exercise of core Second Amendment rights by “a *law-abiding, responsible* citizen,” and that intermediate scrutiny applies to restrictions applicable to a person convicted of a misdemeanor crime of domestic violence. *United States v. Chester*, No. 09-4084, 2010 WL 5396069, \*8 (4<sup>th</sup> Cir. Dec. 10, 2010). “Given Heller’s focus on ‘core’ Second Amendment conduct and the Court’s frequent references to First Amendment doctrine, we agree with those who advocate looking to the First Amendment as a guide in developing a standard of review for the Second Amendment.” *Id.* See Brief of Appellants, 19-26.

Moreover, even where intermediate scrutiny applies, it is insufficient to “offer[] numerous plausible *reasons* why” a restriction “is substantially related to an important government goal”; rather, the government must “offer sufficient *evidence* to establish a substantial relationship between” the restriction “and an important governmental

goal.” *Id.* at \*9. *See* Brief of Appellants, 25-29.

Respectfully submitted,

/s/ Stephen P. Halbrook

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## **CERTIFICATE OF SERVICE**

I certify that on January 4, 2011, electronic copies of this letter were served through the Court's CM/ECF system and paper copies were mailed by first-class mail, postage prepaid, to:

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